

For Registration Willie L. Covington
Register of Deeds
Durham County, NC
Electronically Recorded
2016 Apr 21 10:29 AM NC Rev Stamp: \$ 2933.00
Book: 7913 Page: 578 Fee: \$ 26.00
Instrument Number: 2016011960
DEED

Document was prepared by:
Bob Evans Farms, LLC
Attn: Legal Department
8111 Smith's Mills Road
New Albany, Ohio 43054

After Recording Mail to:
Fidelity National Title Insurance Co.
421 Fayetteville St.
Suite 1304
Raleigh, NC 27614

Under supervision of:
Frankie T. Jones, Jr., Esq.
Smith Moore Leatherwood LLP
300 North Greene Street, Suite 1400
Greensboro, North Carolina 27401

SPECIAL WARRANTY DEED

Excise Tax: \$2,933.00
Tax Parcel ID No. 140181 Verified by _____ County
on the ____ day of _____, 20____ By: _____

Mail/Box to: Vovys, Sater, Seymour and Pease LLP, 52 East Gay St., Columbus, Ohio 43215

This instrument was prepared by: Grantor

Brief description for the Index: _____

THIS DEED, made this the 14th day of April, 2016, by and between

GRANTOR: Bob Evans Farms, LLC, an Ohio limited liability company, successor by conversion of Bob Evans Farms, Inc., successor by merger with BEF REIT, Inc., by virtue of Certificate of Merger recorded in Book 6189, Page 830 of Durham County Registry, NC whose mailing address is 8111 Smith's Mill Road, New Albany, Ohio 43054 and (herein referred to as Grantor) and

GRANTEE: BE Portfolio, LLC, a Delaware limited liability company whose mailing address is c/o Mesirov Realty Sale-Leaseback, Inc.; 353 North Clark Street; Chicago, Illinois 60654 (herein referred to as Grantee) and

WITNESSETH:

For valuable consideration from Grantee to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby gives, grants, bargains, sells and conveys unto Grantee in fee simple, subject to the Exceptions and Reservations hereinafter provided, if any, the following described property located in the City of Durham, County of Durham, State of North Carolina, more particularly described on

A

[Store #321]

submitted electronically by "wyatt Early Harris wheeler LLP" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Durham County Register of Deeds.

Exhibit A, attached hereto and incorporated by reference.

Said property having been previously conveyed to Grantor by instrument(s) recorded in Book 3460, Page 512.

All or a portion of the property herein conveyed ___ includes or does not include the primary residence of a Grantor.

TO HAVE AND TO HOLD unto Grantee in fee simple, together with all rights, privileges, tenements, easements, licenses, hereditaments and appurtenances belonging or pertaining thereto and any mineral rights or interest pertaining thereto, subject to the Exceptions and Reservations hereinafter and hereinabove provided, if any.

And Grantor hereby warrants that Grantor has done nothing to impair the title as received by Grantor and that Grantor will forever warrant and defend the title against the lawful claims of all persons claiming by, through or under Grantor, other than the Exceptions and Reservations hereinafter and hereinabove provided, if any.

This conveyance is made subject to the following Exceptions and Reservations: (i) zoning, building and land use laws, ordinances, rules and regulations; (ii) the lien of taxes and assessments not yet due and payable; (iii) the rights of Grantor under that certain Master Lease Agreement, dated of even date herewith by and between Grantor and Grantee; (iv) those items set forth on Exhibit B, attached here and incorporated herein by this record.

All references to Grantor and Grantee as used herein shall include the parties as well as their successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by context.


[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Bob Evans Farms, LLC, an Ohio limited liability company, successor by conversion of Bob Evans Farms, Inc. and successor by merger to BEF REIT, Inc.

Mark E. Hood

Mark E. Hood, Manager and Chief Financial Officer

<p>State of <u>Ohio</u>) County of <u>Franklin</u>) SS:</p> <p>The foregoing instrument was acknowledged before me this <u>12th</u> day of April, 2016, by Mark E. Hood, the Manager and Chief Financial Officer of Bob Evans Farms, LLC, an Ohio limited liability company, successor by conversion of Bob Evans Farms, Inc. and successor by merger to BEF REIT, Inc., on behalf of Bob Evans Farms, LLC.</p> <p><i>Jenni L. Church</i> Notary Public</p>	<p>(Official/Notarial Seal)</p>  <p>JENNIE L. CHURCH NOTARY PUBLIC * STATE OF OHIO My Commission does not expire Section. 147.03 O.R.C.</p>
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**STORE # 321
EXHIBIT A
LEGAL DESCRIPTION**

Lying and being in Durham County, North Carolina, and more particularly described as follows:

Tract 1:

All of that parcel of land lying and being in Triangle Township, Durham County, North Carolina, and being more particularly described as follows:

COMMENCING at an existing iron pipe lying at the intersection of the southerly right-of-way of US Highway 15-501 (a 260 foot wide public right-of-way) and the westerly right-of-way of Ladel Drive (a 50 foot wide public right-of-way), said point being a property corner of that parcel of land as conveyed to Winn Limited Partnership, recorded in Deed Book 2040, Page 893, Durham County, North Carolina Registry of Deeds, and shown on plat recorded in Plat Book 126, Page 170, aforesaid records; thence following the southerly right-of-way of US Highway 15-501 S 61° 08' 27" W, a distance of 3.00 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, to the POINT OF BEGINNING;

thence following a property line of the aforesaid Winn Limited Partnership tract S 28° 51' 33" E, a distance of 300.00 feet to an iron pipe set at a common corner with the aforesaid Winn Limited Partnership tract;

thence following a property line of the aforesaid Winn Limited Partnership tract S 61° 08' 27" W, a distance of 174.88 feet to an existing iron pipe, said point lying on the easterly property line of that tract of land as conveyed to Donald M. Penny as as recorded in Deed Book 1336, Page 340, aforesaid records;

thence following the easterly property line of the aforesaid Donald M. Penny tract N 28° 51' 33" W, a distance of 300.00 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, said point also being the northeasternmost property corner of the aforesaid Donald M. Penny tract;

thence following the southerly right-of-way of US Highway 15-501 N 61° 08' 27" E, a distance of 174.88 feet to an iron pipe set on the southerly right-of-way of US Highway 15-501, to the POINT OF BEGINNING, containing 1.20 acres of land, more or less, and being all of that parcel of land as conveyed to Wade H. Penny, Jr. and Donald M. Penny, as recorded in Deed Book 2041, Page 687, aforesaid records.

The land is the same as described in that certain survey prepared by Rodney J. McCarter of Civil & Environmental Consultants, Inc., dated February 15, 2016, as follows:

Situated in the State of North Carolina, County of Durham, City of Durham, being the same property as described in Deed Book 2040, Page 893, (all references being to the records of the Recorder's Office, Durham County, North Carolina), and being more particularly described as follows:

Beginning at an open top pipe at the intersection of the southern right of way of Durham Chapel Hill Blvd. and the western right of way of Ladle Drive. Said pipe also being located S13°04'25"W, 41.32' from the centerline intersection of Ladle Drive and Watkins Road, (a public frontage service road). Thence; with the western right of way of Ladle Drive S28°51'21"E, 300.32' to an open top pipe in the line of Moriah LLC (Deed Book 002882/000506). Thence; with the northern line of said property S61°09'53"W, 174.88' to a iron pin set in the line of Durham County Habitat for Humanity (Deed Book 006211/000687).

Thence; with the eastern line of said property N28°49'47"W, 299.97' to an iron pin in the southern right of way of Durham Chapel Hill Blvd. Thence; with said right of way N61°02'52"E, 174.75' to the Point of Beginning containing 1.205 acres as surveyed by Civil & Environmental Consultants, Inc., Rodney J. McCarter PLS Number L-5190. Survey dated February 15, 2016, and bearing Project Number 154-026.78.

Tract 2:

Non-exclusive easement rights contained in that Easement Agreement executed by and between Bob Evans Farms, Inc. and Winn Limited Partnership recorded in Book 2249, Page 141 Durham County Registry, North Carolina.

Tract 3:

Non-exclusive easement rights contained in that Easement Agreement executed by and between Bob Evans Farms, Inc. and Donald M. Penny recorded in Book 2275, Page 157 Durham County Registry, North Carolina.

Store #: 321
Address: 5419 Chapel Hill Blvd., Durham, NC

**STORE 321
EXHIBIT B**

The Following Affect Tract 1:

1. Intentionally deleted.
2. Intentionally deleted.
- .3. Intentionally deleted.
4. Easement(s) or right(s)-of-way in favor of Duke Power Company recorded in Book 170, Page 432; Book 199, Page 60; Book 238, Page 67 and in Book 965, Page 845, in the aforesaid Registry's Office.
5. Easement(s) or right(s)-of-way in favor of North Carolina State Highway Commission recorded in Book 204, Page 422, in the aforesaid Registry's Office.
6. Special Use Permit recorded in Book 1671, Page 468, in the aforesaid Registry's Office.
7. Intentionally deleted.
8. Intentionally deleted.
9. Intentionally deleted.
10. Intentionally deleted.
11. Intentionally deleted.
12. Intentionally deleted.

The Following Affect Tract 2:

13. Easement(s) or right(s)-of-way in favor of Duke Power Company recorded in Book 170, Page 432; Book 199, Page 60; Book 238, Page 67 and in Book 1564, Page 260, in the aforesaid Registry's Office.
14. Easement(s) or right(s)-of-way in favor of GTE South Incorporated recorded in Book 1641, Page 594 and in Book 1599, Page 607, in the aforesaid Registry's Office.
15. Easement Agreement executed by and between P&S Properties Limited Partnership, Terry Chronaki and Cadee Chronaki, recorded in Book 2040, Page 893, in the aforesaid Registry's Office.
16. Terms and conditions of that Easement Agreement executed by and between Bob Evans Farms, Inc., and Winn Limited Partnership, recorded in Book 2249, Page 141,
17. Intentionally deleted.
18. Ground Lease executed by and between Winn Limited Partnership ("Lessor") and Capstar Winston Company, L.L.C. ("Lessee") by evidence of that Memorandum of Lease recorded in Book 2492, Page 543, affected by that Amended Memorandum of Lease recorded in Book 2882, Page 547, in the aforesaid Registry's Office.

The Following Affect Tract 3:

19. Easement(s) or right(s)-of-way in favor of Duke Power Company recorded in Book 170, Page 432; Book 199, Page 60; Book 238, Page 67 and in Book 965, Page 845, in the aforesaid Registry's Office.
20. Easement(s) or right(s)-of-way in favor of GTE South Incorporated recorded in Book 1641, Page 594, in the aforesaid Registry's Office.
21. Special Use Permit recorded in Book 1671, Page 468, in the aforesaid Registry's Office.
22. Easement(s) or right(s)-of-way in favor of City of Durham recorded in Book 2164, Page 758, in the aforesaid Registry's Office.
23. Terms and conditions of that Easement Agreement executed by and between Bob Evans Farms, Inc., and Donald M. Penny, recorded in Book 2275, Page 157, in the aforesaid Registry's Office.
24. Intentionally deleted.
25. Intentionally deleted.
26. Intentionally deleted.